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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,871	10/31/2003	James Daniel Baldwin	81305-4000	9023

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EXAMINER

LUM VANNUCCI, LEE SIN YEE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/697,871

Applicant(s)

BALDWIN ET AL.

Examiner

Lee Lum

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/31/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The disclosure is objected to because the following elements lack antecedent basis:
 - in Claim 3 – stiffness,
 - in Claim 5 – interior cavity,
 - in Claim 7 – frame interior,
 - in Claim 11 – scooter,
 - in Claim 12 – second, stiffness,
 - in Claim 18 – longitudinal (second occurrence),
 - in Claim 23 – seat, plurality, energy,
 - in Claim 24 – torsional.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-11 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 9, “at least most” is unclear/indefinite.

In Claim 18, “at between” is unclear.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 15-19 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Yashima et al 4700795.

Yashima discloses a scooter frame, in figs 5-6, comprising

First frame portion (unidentified) comprising a plurality of welded (col 4, paragraphs 3 and 4) struts, including 80-85/88/92/93, and

comprising at least one skin member (unidentified in fig 6, shown in phantom) for closing at least portions of openings (unidentified) defined between the struts, the skin member comprising unidentified battery trays for batteries 30,

the skin member comprising a plurality of the same,

Second frame portion comprising a plurality of welded struts, including 86-91/94/95, and skin members (unidentified), associated with the first portion for increasing the stiffness of the former,

The portions supporting a rider, and

defining an interior cavity (unidentified) for housing a component/energy source (batteries 30) of a propulsion system (including unidentified motor in fig 6 beneath seat) , comprising attachments (unidentified in fig 6, inherent including unidentified swingarm connecting rear wheel) for connecting wheels, and a stepthrough (unidentified, including struts 82/83, and associated skin members) for the scooter, permitting removal of the battery tray when the portions are separated,

The struts further comprising a concave bracket, including struts 82/83, for supporting a bottom portion of the tray (holding battery 31B),

And a rear group of struts 86-95 formed as a unit to define an open rear wall,

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Wherein the first frame portion is a lower frame (formed by struts 80-85/88/92/93) disposed beneath the second frame portion, the latter being an upper frame (formed by struts 86-91/94/95),

The lower frame including headtube 80 that receives a steering tube (unidentified, col 4, lines 9-10),

The scooter frame further comprising

Seat (unidentified in fig 6),

Suspension system (unidentified in fig 6, including front/rear shocks, swingarm).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yashima in view of Stevenson et al 6047786, and Ono 5207288.

Yashima does not disclose the struts as including aluminum/alloy, while Stevenson shows this material in col 6, lines 7-11. While it is clear that the frame would include a material that will accommodate the vehicle and particular application, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include these materials, as shown in Stevenson, as types of materials with the requisite structural strength and durability.

The previous references do not disclose the skin members as including fiber-reinforced material, while Ono shows this material in col 1, lines 65-67. While it is clear that these components would comprise a material that would be appropriate for the vehicle and application, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include this particular material, as shown in Ono, as one well-known type which has the requisite strength and durability for use in this vehicle.

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B. **Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yashima alone.

Yashima does not specify the first and second frame portions as having a longitudinal torsional stiffness greater than that of the first frame member, but this feature is application-dependent, as well as dependent on the materials and mode(s) of assembly. Nevertheless, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature to ensure that the connected frame portions have the required structural characteristics for the particular application.

C. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yashima in view of Ono.

Yashima does not disclose three wheels, while Ono shows this configuration in col 1, line 8. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this alternate embodiment, as shown in Ono, for different applications, and to provide increased balance for the vehicle and rider.

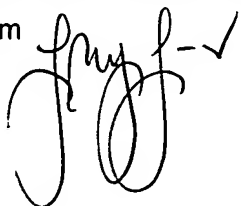
5. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Hirayama et al 6679345, Nakagawa et al 6176338, Ohmika et al 6073719, Kumamaru et al 5433286, Ota et al 4915188.

6. Communication with USPTO/Examiner

Any inquiry concerning this communication should be directed to Ms. Lum at 703 305-0232, M-F, 830-530. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum
Examiner
9/17/04



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